

To UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:  
P J Cotter,

Debtor.

Bankruptcy Case No. 14-51270  
Honorable Thomas J. Tucker

\_\_\_\_\_/

P J Cotter,

Appellant,

Civil Case No. 15-cv-12592  
Honorable Linda V. Parker  
Magistrate Judge Mona K. Majoub

v.

Michael A. Stevenson,

Appellee

\_\_\_\_\_/

Appellee's Motion To Dismiss Appeal

Sonya N. Goll (P61136)  
Stevenson & Bullock, PLC  
Attorney for Appellee  
26100 American Dr., Suite 500  
Southfield, MI 48034  
(248) 354-7906  
[sgoll@sbplclaw.com](mailto:sgoll@sbplclaw.com)

Michael A. Stevenson, Chapter 7 Trustee of P J Cotter (“Appellee”), by his counsel, Stevenson & Bullock, PLC, moves this Court for an order dismissing the pending appeal, and states as follows:

Procedural Background

1. On July 8, 2015, the Bankruptcy Court entered the Order Granting Trustee’s Motion for Authority to Compromise . [Bankruptcy Docket No. 110] (the “Order”).

2. On July 21, 2015, the Debtor filed a Motion to Amend Order, Etc. [Bankruptcy Court Docket No. 117], requesting the Court, in effect, reconsider the Order; On July 24, 2015, the Court entered the Order Denying Debtor’s Motion to Amend Order, Etc. [Bankruptcy Court Docket No. 130].

3. Appellant filed a notice of appeal of the Order on July 22, 2015, one day after the Motion to Amend Order, Etc. was filed, and two days before the Order Denying Debtor’s Motion to Amend Order, Etc. was entered.

4. The Appellant failed to file a Motion for Stay Pending Appeal.

5. On July 30, 2015, an Order Dismissing Case Number 14-13115 [U.S. District Court Docket No. 54] (the “Order Dismissing”) was entered dismissing United States District Court Case 14-13115, Stevenson v. Ocwen Loan Servicing,

LLC, et. al (the “District Court Lawsuit”); the Order Dismissing was not appealed and is now a final order.

6. On February 9, 2016, Magistrate Judge Mona K. Majzoub, entered her Report and Recommendation (Docket No. 10) recommending that the appeal be dismissed for lack of standing (the “Magistrate’s Report”).

7. On February 19, 2016, the Appellant’s underlying bankruptcy case, Bankruptcy Case No. 14-51270, was closed without discharge. (See Exhibit D attached hereto).

#### Grounds for Relief Requested

8. Appellant’s appeal seeks to set aside the Order. However, Appellant failed to request a stay pending appeal from either this Court or the Bankruptcy Court, and the bankruptcy case was closed after the District Court Lawsuit was dismissed.

9. The mootness doctrine, is premised on the fundamental jurisdictional tenet that federal courts are only empowered to hear live cases and controversies. U.S. Const. art. III, section 2; *In re Texaco, Inc.*, 92 Bankr. 38, 45 (S.D.N.Y. 1988); *In re Sullivan Cent. Plaza, I, Ltd.*, 914 F.2d 731, 735 (5<sup>th</sup> Cir. 1990).

10. A case is found moot when the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome. *In re Asmar, Inc.*,

2013 U.S. Dist. Lexis 22646, 7, 2013 WL 628581 (Bank. E.D.MI. 2013) (citations omitted), (citing *County of Los Angeles v David*, 440 U.S. 625, 631, 99 S. Ct. 1379, 59 L. Ed. 2d 642, (citing *Powell v McCormack*, 395 U.S. 486, 497, 89 S. Ct. 1944, 23 L. Ed. 2d 491 (1969))).

11. If an appellate court lacks the power to provide an effective remedy for an appellant if the court were to find in the appellant's favor on the merits, the appeal is properly dismissed as moot. *Mills v Green*, 159 U.S. 651, 653, 16 S. Ct. 132, 133, 40 L. Ed. 293 (1895); *In re Comodore Corp.*, 86 Bankr. 564, 569 (N.D.Ind. 1988); *In re Sullivan Cent. Plaza, I, Ltd.*, 914 at 735.

12. "For that reason, if any event occurs while a case is pending on appeal that makes it impossible for the court to grant 'any effectual relief whatever' to a prevailing party, the appeal must be dismissed." *In re Osborn*, 24 F.3d 1199, 1203 (10<sup>th</sup> Cir. 1994)(quoting *Church of Scientology v. United States*, 506 U.S. 9, 12, 113 S. Ct. 447, 121 L. Ed. 2d 313 (1992)).

13. Even if this Court could find in the Appellant's favor, which is highly unlikely given the Magistrate's Report, it would be impossible for the court to give the Appellant any effectual relief whatever, as the District Court Lawsuit, which was the basis for the Trustee's Motion for Authority to Compromise, has been dismissed, and the bankruptcy case closed.

15. Undersigned counsel requested concurrence in the relief requested, and concurrence was not granted.

Relief Requested

16. For the grounds set forth above, Appellee respectfully requests the Court dismiss Appellant's appeal.

Stevenson & Bullock, PLC

/s/ Sonya N. Goll (P61136)  
Attorney for 26100 American Dr., Suite 500  
Southfield, MI 48034  
(248) 354-7906  
[sgoll@sbplclaw.com](mailto:sgoll@sbplclaw.com)

Date: February 22, 2016

**Certificate of Service**

I hereby certify that on February 22, 2016, I filed with the Court, via the Court's Electronic Case Filing system, a copy of the Appellee's Motion to Dismiss Appeal. The Motion was served upon required parties electronically via the Court's Notice of Electronic Filing System or by placing same in an envelope with sufficient postage thereon, and depositing same in a United States mail receptacle in the City of Southfield, State of Michigan to:

PJ Cotter, P.O. Box 131, Anchorville, MI 48004.

/s/ Sonya N. Goll (P61136)  
Stevenson & Bullock, PLC  
Attorney for Appellee

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:  
P J Cotter,

Debtor.

Bankruptcy Case No. 14-51270  
Honorable Thomas J. Tucker

\_\_\_\_\_  
P J Cotter,

Appellant,

Civil Case No. 15-cv-12592  
Honorable Linda V. Parker  
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v.

Michael A. Stevenson,  
Appellee  
\_\_\_\_\_

Brief in Support of Appellee's Motion To Dismiss Appeal

Michael A. Stevenson, Chapter 7 Trustee of P J Cotter ("Appellee"), by his counsel, Stevenson & Bullock, PLC, and in support of his motion to dismiss appeal states:

1. The Appellee relies upon the facts, law and arguments as set forth in his Motion.

For the grounds set forth above, Appellee respectfully requests the Court dismiss Appellant's appeal.

Stevenson & Bullock, PLC

/s/ Sonya N. Goll (P61136)

Attorney for 26100 American Dr., Suite 500  
Southfield, MI 48034

(248) 354-7906

[sgoll@sbplclaw.com](mailto:sgoll@sbplclaw.com)

Date: February 22, 2016

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:  
P J Cotter,

Debtor.

Bankruptcy Case No. 14-51270  
Honorable Thomas J. Tucker

\_\_\_\_\_  
P J Cotter,

Appellant,

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Index of Exhibits

| Exhibit | Description   |
|---------|---|
| A       | Order Granting Trustee's Motion for Authority to Compromise [Bankruptcy Docket No. 110] |
| B       | Order Denying Debtor's Motion to Amend Order, Etc. [Bankruptcy Court Docket No. 130]    |
| C       | Order Dismissing Case Number 14-13115 [U.S. District Court Docket No. 54]               |
| D       | Docket Text case number 14-51270 closed without discharge                               |



**EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION – DETROIT**

**IN THE MATTER OF:**

P J Cotter,

Debtor

Case No. 14-51270-tjt  
Judge Thomas J. Tucker  
Chapter 7

**ORDER GRANTING TRUSTEE’S MOTION FOR AUTHORITY TO  
COMPROMISE CLAIMS IN UNITED STATES DISTRICT COURT CASE 14-13115,  
STEVENSON v. OCWEN LOAN SERVICING, LLC, ET AL.**

This case is before the Court on the Chapter 7 Trustee’s motion entitled “Trustee’s Motion for Authority to Compromise United States District Court Case 14-13115, Stevenson v. Ocwen Loan Servicing, LLC, et. al.” (Docket # 66, the “Motion”). The Debtor filed objections to the Motion, and the Court held hearings on May 20, 2015 and July 8, 2015. For the reasons stated by the Court on the record during the July 8, 2015 hearing,

**IT IS ORDERED** that the Motion is granted, and the Trustee is authorized to settle and compromise the bankruptcy estate’s interest in United States District Court Case 14-13115, Stevenson v. Ocwen Loan Servicing, LLC et. al. upon the terms provided in the Motion .

**IT IS FURTHER ORDERED** that Ocwen Loan Servicing, LLC must pay to the Bankruptcy estate the amount of \$10,000.00, and the Estate will release any and all claims it now has, or may have, against the Defendants and dismiss the Complaint with prejudice and without costs.

**IT IS FURTHER ORDERED** that the Trustee may execute any document or perform any act which in the Trustee’s judgment is necessary, reasonable, or appropriate to implement, effectuate, and consummate the settlement, including signing a release of all the Debtor’s and the bankruptcy estate’s claims and taking action to dismiss the District Court Litigation.

**Signed on July 08, 2015**

/s/ Thomas J. Tucker  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**

**EXHIBIT B**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

IN RE:

Case No. 14-51270

PJ COTTER, *pro se*,

Chapter 7

Debtor.

Judge Thomas J. Tucker

\_\_\_\_\_ /

**ORDER DENYING DEBTOR'S MOTION TO AMEND ORDER, ETC.**

This case is before the Court on the Debtor's motion filed July 21, 2015, entitled "Motion to Amend Order Docket Entry # 110. . .," filed July 21, 2015 (Docket # 117, the "Motion"), which the Court construes as a motion for reconsideration of, and for relief from, and to alter, the July 8, 2015 Order Granting Trustee's Motion for Authority to Compromise Claims in United States District Court Case 14-13115 (Docket # 110, the "July 8 Order").

The Court finds that the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

In addition, the Court finds that the allegations in the Motion do not establish any valid ground under Fed.R.Civ.P. 59(e), 60(b), Fed.R.Bankr.P. 9024, or any other valid ground for relief from the July 8 Order.

NOW, THEREFORE,

IT IS ORDERED that the Motion is denied.

**Signed on July 24, 2015**

/s/ Thomas J. Tucker

**Thomas J. Tucker**

**United States Bankruptcy Judge**

EXHIBIT C

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION – DETROIT**

**IN THE MATTER OF:**

P. J. Cotter,

Debtor.

\_\_\_\_\_  
Stevenson

Plaintiff

v.

Ocwen Loan Services, L.L.C. et al

Defendants  
\_\_\_\_\_

Bankruptcy Case No. 14-51270-tjt  
Honorable Thomas J. Tucker  
Chapter 7

Honorable Mark A. Goldsmith  
Honorable Anthony P. Patti  
Case No. 14-cv-13115

**ORDER DISMISSING CASE NUMBER 14-13115**

This matter having come before the Court upon stipulation of the parties hereto, said stipulation being incorporated in the Order Resolving U.S. District Court Case 14-13115 and for Turnover of Proceeds to the Bankruptcy Estate entered by the Court on July 15, 2015 (DN 53), the parties having represented to the Court that they are in agreement; and the Court being fully advised in the premises;

**IT IS HEREBY ORDERED** that the underlying case is DISMISSED.

Dated: July 30, 2015  
Detroit, Michigan

s/Mark A. Goldsmith  
MARK A. GOLDSMITH  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 30, 2015.

s/Carrie Haddon  
Case Manager

EXHIBIT D

**Sonya Goll**

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**From:** mieb\_ecfadmin@mieb.uscourts.gov  
**Sent:** Friday, February 19, 2016 2:18 PM  
**To:** mieb\_ecfadmin@mieb.uscourts.gov  
**Subject:** 14-51270-tjt "Case Closed Without Discharge and Final Decree" Ch 7

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30-page limit do not apply.

**U.S. Bankruptcy Court**

**Eastern District of Michigan**

Notice of Electronic Filing

The following transaction was received from KHM entered on 2/19/2016 at 2:18 PM EST and filed on 2/19/2016

**Case Name:** P J Cotter  
**Case Number:** 14-51270-tjt  
**WARNING: CASE CLOSED on 02/19/2016**  
**Document Number:**

**Docket Text:**

Final Decree: The bankruptcy estate has been fully administered. The bankruptcy court has decreed that Trustee Michael Stevenson is discharged as trustee of the estate and the bond is cancelled and the chapter 7 case is closed. **Case Closed Without Discharge as to Debtor, P J Cotter** . Debtor(s) has not filed a Financial Management Course Certificate proving compliance with the required instructional course requirement for discharge. If the debtor(s) subsequently file(s) a Motion to Reopen the Case to allow for the filing of the Financial Management Course Certificate, the debtor(s) must pay the full filing fee due for filing such a motion. . (KHM)

The following document(s) are associated with this transaction:

**14-51270-tjt Notice will be electronically mailed to:**

Sonya N. Goll on behalf of Trustee Michael Stevenson  
[sgoll@sbplclaw.com](mailto:sgoll@sbplclaw.com), [rschultz@sbplclaw.com](mailto:rschultz@sbplclaw.com)

Elizabeth Kanous on behalf of Creditor Ocwen Loan Servicing LLC.  
[bknotices-edm@potestivolaw.com](mailto:bknotices-edm@potestivolaw.com)

Michael Stevenson



mas@sbplclaw.com,

MI15@ecfcbis.com;ms@trustesolutions.com;ms@trustesolutions.net;rschultz@sbplclaw.com

Michael A. Stevenson on behalf of Trustee Michael Stevenson

mas@sbplclaw.com, rschultz@sbplclaw.com

**14-51270-tjt Notice will not be electronically mailed to:**

P J Cotter,  
P.O. Box 131  
Anchorville, MI 48004

Daniel M. McDermott